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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,713	04/19/2007	Yoshihito Ohkawa	1000023-000114	3547

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BUCHANAN, INGERSOLL & ROONEY PC
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EXAMINER

LEE, DORIS L

ART UNIT	PAPER NUMBER
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1796

NOTIFICATION DATE	DELIVERY MODE
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02/17/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Office Action Summary	Application No.	Applicant(s)	
	10/587,713	OHKAWA, YOSHIHITO	
	Examiner	Art Unit	
	Doris L. Lee	1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20090113</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. No new grounds of rejection are set forth below. Thus, the following action is made final.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior office action.

Claim Rejections - 35 USC § 102

3. **Claims 1-2, 4-7, and 10-13** are rejected under 35 U.S.C. 102(b) as being anticipated by **Ouchi (JP 2001-220441, see machine translation)**.

The rejection is adequately set forth in paragraph 2 of the Office Action mailed on May 16, 2008 and is incorporated here by reference.

Claim Rejections - 35 USC § 103

4. **Claims 3, 8, 9 and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ouchi (JP 2001-220441, see machine translation)**.

The rejection is adequately set forth in paragraph 4 of the Office Action mailed on May 16, 2008 and is incorporated here by reference.

Response to Arguments

5. Applicant's arguments filed 11/17/2008 have been fully considered but they are not persuasive for the reasons as set forth below.
6. **Applicant's arguments:** The inventive examples and the comparative examples and the declaration filed on 11/17/2008 show unexpected and superior results. It is noted that the Applicant has submitted the Declaration as an additional comparative example which the Applicant states is in accordance with the invention of JP '411.

Examiner's response: *In order to meet the requirements for unexpected results, it is necessary for the data to be commensurate in scope with the claim limitations. The data does not meet this requirement. For example, the claim 1 has a limitation of 10 - 80 % by mass of polyamide, however, the data presented has only 41-42 % by weight polyamide. The claim also has limitations of 5-40% by mass of a flame retardant, 0-60 % by mass of an inorganic reinforcing material, and 0-5% by mass of a drip preventing agent while the data provides information only on 21-23 wt % of a poly brominated styrene, 30 wt% of glass fiber and 1-2 wt % of Maleated SEBS. The examiner can not determine if the unexpected results are present in compositions, for example, with no inorganic reinforcing materials and no drip preventing agents or if the unexpected results are present at flame retardant concentrations or flame retardant types that are different than the presented data but fall under the scope of the instant claims. Therefore, the criticality of the claimed range has not been elucidated. It is also noted that unexpected results can not overcome an anticipatory rejection.*

7. **Applicant's arguments:** JP '441 does not teach all the limitations of claim 1, namely the mixture of zinc borate and at least one other salt of zinc which is specifically recited in claim 1 of the present application.

Examiner's response: *The limitations of the claims are met in paragraph [0010] which states that **one or more kinds** of compounds selected from oxides containing zinc and zinc salts of phosphoric acid. Paragraph [0038] lists all the types of zinc compounds which zinc borate is listed as the preferential zinc oxide. Although the application lists only one type of zinc compound in each of the*

Art Unit: 1796

embodiments, the teaching of JP '411 is taken in light of the whole specification and not only the embodiments presented.

8. **Applicant's arguments:** JP '411 does not recognize that by using a combination of zinc borate at least one other salt of zinc, one can obtain advantageous properties illustrated in the evidence of record.

Examiner's response: *The fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See Ex parte Obiaya, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).*

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Doris L. Lee whose telephone number is

Art Unit: 1796

(571)270-3872. The examiner can normally be reached on Monday - Thursday 7:30 am to 5 pm and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571)272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Doris L Lee/
Examiner, Art Unit 1796

/Vasu Jagannathan/
Supervisory Patent Examiner, Art Unit 1796